

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

Damonie Earl, et al.,

Plaintiffs,

v.

Civil Action No. 4:19-cv-00507-ALM

The Boeing Company, et al.,

Defendants.

PLAINTIFFS' NOTICE REGARDING ORDER TO SHOW CAUSE

On March 11, 2021, the Court ordered Defendant Southwest Airlines to show cause as to why it did not violate the Federal Rules of Civil Procedure, the Local Rules, and the Order Governing Proceedings as to the production and preservation of relevant text messages. (Dkt. 334.) At 11:55 pm Central Time on May 12, 2021, Southwest disclosed for the first time that Southwest witness

Brandy King . . . has had her current mobile phone for years, but in June or July 2020, that phone would not turn on, so she took it to a repair shop. The phone was repaired, but most of her data (including family photos and text messages) was gone when she retrieved her phone, and AT&T could not locate the data.

(Dkt. 443 at 13.)¹ As of the date of this Notice, Southwest has produced zero custodial text messages from Brandy King.

Attached as Exhibit A is a June 16, 2020, email from Plaintiffs' counsel Andrew Wolinsky to counsel for Southwest Airlines in this case.

.

¹ Ms. King's role in this case is detailed in (among other places) Plaintiffs' Motion for Class Certification (Dkt. 276), Plaintiffs' Reply Brief in Support of Motion for Class Certification (Dkt. 357), Plaintiffs' submissions regarding the Order to Show Cause (Dkt. 379; Dkt. 412), and Plaintiffs' briefing on their outstanding Motion to Compel Southwest to Produce Texts and Testimony (Dkt. 396; Dkt. 436).

Dated: May 13, 2021

John Jeffrey Eichmann (CA 227472)
jeff@dovel.com
Gregory S. Dovel (CA 135387)
greg@dovel.com
Simon Franzini (CA 287631)
simon@dovel.com
Julien A. Adams (CA 156135)
julien@dovel.com
Jonas Jacobson (CA 269912)
jonas@dovel.com
Christin Cho (CA 238173)
christin@dovel.com
Rick Lyon (CA 229288)
rick@dovel.com
DOVEL & LUNER, LLP
201 Santa Monica Blvd., Suite 600
Santa Monica, CA 90401
Tel: (310) 656-7066

Attorneys for Plaintiffs

Elizabeth L. DeRieux (TX 05770585)
ederieux@capshawlaw.com
S. Calvin Capshaw (TX 03783900)
ccapshaw@capshawlaw.com
CAPSHAW DERIEUX LLP
114 E. Commerce
Gladewater, Texas 75647
Tel: (903) 236-9800
Fax: (903) 236-8787

Attorneys for Plaintiffs

Respectfully submitted,

/s/ Brian J. Dunne
Yavar Bathaee (NY 4703443) (Lead Counsel)
yavar@bathaeedunne.com
Brian J. Dunne (CA 275689)
bdunne@bathaeedunne.com
Edward M. Grauman (TX 24081931)
egrauman@bathaeedunne.com
Andrew Wolinsky (NY 4892196)
awolinsky@bathaeedunne.com
BATHAEE DUNNE LLP
445 Park Avenue, 9th Floor
New York, NY 10022
Tel: (332) 205-7668

Attorneys for Plaintiffs

Certificate of Service

This document has been properly served on all parties through the Court's CM/ECF system.

/s/ Brian J. Dunne